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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No. 08 Civ. 4612 (CM)
	:	ECF Case
JOHN MICHAEL KELLY, STEVEN E.	:	
RINDNER, JOSEPH A. RIPP, and	:	
MARK WOVSANIKER,	:	
	:	
Defendants.	:	

**DECLARATION OF PATRICK F. LINEHAN IN SUPPORT OF DEFENDANT STEVEN  
E. RINDNER'S MOTION FOR JUDGMENT ON THE PLEADINGS,  
OR ALTERNATIVELY FOR PARTIAL RECONSIDERATION OF THE  
COURT'S JANUARY 7, 2011 ORDER DENYING SUMMARY JUDGMENT**

I, Patrick F. Linehan, declare and say as follows:

1. I am a member of the bars of the District of Columbia and the State of New York and am admitted *pro hac vice* in the above-captioned case. I am associated with the law firm of Steptoe & Johnson, LLP, attorneys for Defendant Steven E. Rindner in this action. I submit this declaration to present to the Court the following Exhibits in support of Mr. Rindner's

Motion for Judgment on the Pleadings, or Alternatively for Partial Reconsideration of the Court's January 7, 2011 Order Denying Summary Judgment.

2. Attached as Exhibit A to this declaration is a true and correct copy of the opinion of the United States Supreme Court delivered in *Janus Capital Group, Inc. v. First Derivative Traders*, reported at 131 S. Ct. 2296 (2011).

3. Attached as Exhibit B to this declaration is a true and correct copy of *SEC v. Daifotis*, No. CV-11-0137 WHA, Plaintiff's Memorandum in Opposition to Defendant Daifotis's Motion for Reconsideration of Certain Portions of the Court's June 6, 2011 Order Denying His Motion to Dismiss (N.D. Cal. July 6, 2011).

I certify, under penalty of perjury, that the foregoing statements made by me are true.

Executed on July 11, 2011

/s/ Patrick F. Linehan  
Patrick F. Linehan

**CERTIFICATE OF SERVICE**

I hereby certify that on July 11, 2011, I caused a true and correct copy of the foregoing Declaration of Patrick F. Linehan in Support of Defendant Steven E. Rindner's Motion for Judgment on the Pleadings, or Alternatively for Partial Reconsideration of the Court's January 7, 2011 Order Denying Summary Judgment, and all exhibits attached thereto, to be served via the Court's ECF filing system, upon the following counsel:

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